

## SUBCHAPTER E—CLAIMS

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AUTHORITY: 5 U.S.C. 301, 5 U.S.C. 552, 10 U.S.C. 5013, and 5148.

SOURCE: 57 FR 4722, Feb. 7, 1992, unless otherwise noted.

#### Subpart A—General Provisions for Claims

##### § 750.1 Scope of subpart A.

(a) *General.* (1) The Judge Advocate General is responsible for the administration and supervision of the resolution of claims arising under the Federal Tort Claims Act (subpart B of this part), the Military Claims Act (subpart C of this chapter), the Nonscope Claims Act (subpart D of this part), the Personnel Claims Act (part 751 of this chapter), the Foreign Claims Act, the International Agreements Claims Act pertaining to cost sharing of claims pursuant to international agreements, the Federal Claims Collection Act (subpart A of part 757 of this chapter), the Medical Care Recovery Act and Health Care Services Incurred on Behalf of Covered Beneficiaries: Collection from Third-party Payers (subpart B of part 757 of this chapter), and postal claims.

(2) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation) (Code 15) is the manager of the Navy claims system established to evaluate, adjudicate, and provide litigation support for claims arising under the acts listed above and is responsible to the Judge Advocate General for the management of that system. The claims system consists of the Claims

and Tort Litigation Division of the Office of the Judge Advocate General (Code 15), and the attorneys and support personnel assigned to the Tort Claims Unit at Naval Station, Norfolk, Virginia. For economy of language, Naval Legal Service Offices and Naval Legal Service Office Detachments are referred to as Naval Legal Service Command Activities.

(3) Commanding officers of commands receiving claims are responsible for complying with the guidance on investigations in Sec. 750.2 and Sec. 750.3, the guidance on handling and forwarding claims found in Sec. 750.5, and the guidance provided in the JAG Instruction 5800.7E (JAGMAN)<sup>1</sup> of 20 June 2007.

(b) This subpart A delineates general investigative and claims-processing requirements to be followed in the handling of all incidents and claims within the provisions of this part. Where the general provisions of this subpart A conflict with the specific provisions of any subsequent subpart of this part, the specific provisions govern.

[57 FR 4722, Feb. 7, 1992, as amended at 72 FR 53417, Sept. 19, 2007]

#### § 750.2 Investigations: In general.

(a) *Conducting the investigation.* The command where the incident giving rise to the claim is alleged to have happened is responsible for conducting an investigation in accordance with this part.

(b) *Thorough investigation.* Every incident that may result in a claim against or in favor of the United States shall be promptly and thoroughly investigated under this part. Investigations convened for claims purposes are sufficiently complex that they should be performed with the assistance and under the supervision of a judge advocate or other attorney. Where the command has an attorney assigned, he shall be involved in every aspect of the proceedings. When an attorney is not assigned to the investigating command, consultation shall be sought

from the appropriate Naval Legal Service Command activity.

(c) *Recovery barred.* Even when recovery must be barred by statute or case law, all deaths, serious injuries, and substantial losses to property that are likely to give rise to claims must be investigated while the evidence is available. Claims against persons in the naval service arising from the performance of their official duties shall be investigated as though they were claims against the United States. When an incident involves an actual or potential claim against the United States for property damage only and the total amount likely to be paid does not exceed \$5,000.00, an abbreviated investigative report may be submitted. Where this monetary figure may be exceeded, but the circumstances indicate an abbreviated report may be adequate to preserve the facts and protect the Government's claims interests, approval to submit a limited investigative report may be sought from the Office of the Judge Advocate General (Claims and Tort Litigation Division) (Code 15), the Tort Claims Unit Norfolk, or the nearest Naval Legal Service Command activity.

(d) *Developing the facts.* Any investigation convened for claims purposes must focus on developing the facts of the incident, *i.e.*, the who, what, where, when, why, and how of the matter. Opinions on the possible liability of the United States under any of the claims statutes listed above shall not be expressed. Early and continuous consultation with claims attorneys at Naval Legal Service Command activities is essential to ensure the timely development of all necessary facts, the identification and preservation of relevant evidence, and to void the need for supplemental inquiries.

(e) *Attorney work product.* (1) The convening order and the preliminary statement of an investigative report prepared to inquire into the facts of an incident giving or likely to give rise to a claim against the United States shall include the following:

This investigation has been convened and conducted, and this report prepared, in contemplation of claims adjudication and litigation and for the express purpose of assisting

<sup>1</sup>JAG Instruction 5800.7E (JAGMAN) may be retrieved at the official Web site of the United States Navy Judge Advocate General's Corps at <http://www.jag.navy.mil>.